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February
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C.R.R. No.1467 of 2016
With
CRAN 4 of 2017 (Old CRAN 4643 of 2017)
(Via Video Conference)

In Re: An application under Section 482 of the Code of Criminal
Procedure, 1973;

Sunil Prabakar Kher
Versus
The State of West Bengal & Anr.

Mr. Sabir Ahmed,
Mr. Subhankar Chakraborty,
Mr. P. Manna.
...for the petitioner.

Mr. Sourav Chatterjee,
Ms. Subhasree Patel.
...for the opposite party no.2.

The present revisional application was filed in connection with Complaint Case No.CS0071628 of 2016 which was pending before the learned Chief Metropolitan Magistrate at Calcutta for alleged commission of offence punishable under Section 406 of the Indian Penal Code.

The sum and substance of the allegations made in the petition of complaint were to the effect that one of the employee of the complainant/company was a resident at premises being flat nos.1 and 3 at 8, Lord Sinha Road, Kolkata-700 020. The said employee, Arpan Roy joined the complainant company on 01.04.2011 and was working as a supervisor. But unfortunately, he expired on 12.07.2015.

It has been alleged that in the service period, late Arpan

Roy stored some electronic goods/articles of the complainant company at the said premises. It has been contended that most of the goods related to surveillance system of Kolkata Police and the total value of the said articles were Rs.32,78,233.39/-

Records reflect that the Life Insurance Corporation is the lawful owner of the said flats and the present petitioner is the Estate Manager of Life Insurance Corporation having its office at Ground Floor, Hindusthan Building, 4, CR Avenue, Kolkata – 700 012.

The main thrust of allegations against the Estate Manager who has been made an accused in this case is that after the demise of said Arpan Roy, who was an employee of the complainant company, the Estate Manager took possession of the flat and illegally withheld the electronic goods/articles belonging to the complainant company. It has also been contended in the complaint that information of the complaint was addressed to the Officer-in-Charge of Shakespeare Sarani Police Station as also to the Joint Commissioner of Police (Crime), Detective Department, Lalbazar and also to the Dy. Commissioner of Police, South Division which were received on 25th March, 2016 and 26th March, 2016. However, no responses were received by the complainant company.

I have assessed the allegations made in the petition of complaint which related to wrongful withholding of the electronic goods belonging to the complaint company which were in custody of one of the employee who expired.

The Estate Manager by virtue of his official powers as

well as statutory powers is entitled to seal the flats where the occupier of a public premises is in possession and which is within the exclusive domain of the Estate Manager, the act was done in his official capacity and, as such, he cannot be held responsible for any property lying in the said premises. Further, there is no basic allegations of any entrustment being made to the Estate Manager in the present case.

Having regard to the overall allegations and in the backdrop of withholding the electronic goods by the present petitioner, who has been accused in the present case, I am of the opinion prima facie that no case has been made out against the Estate Manager to contest the complaint case in a court of law.

Accordingly, all further proceedings arising out of Complaint Case No. CS0071628 of 2016 under Section 406 of the Indian Penal Code pending before the learned Chief Metropolitan Magistrate, Calcutta as also all orders passed therein are hereby quashed.

Thus, CRR 1467 of 2016 is allowed.

Pending applications, if any, are consequently disposed of.

Interim order is made absolute.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)

